

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

ORDER

- against -

Case No. 17-CR-664

RICHARD LUTHMANN

Defendant.

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DEARIE, District Judge

Defendant Richard Luthmann moves pro se for a sentence reduction pursuant to 18 U.S.C. § 3582(c), ECF No. 262, and for modification of the terms of his supervised release, ECF No. 266. The motions are denied. As to the first, Mr. Luthmann fails to assert extraordinary and compelling circumstances warranting a sentence reduction. His expected release date is August 5, 2021, and he is vaccinated and therefore not at any material risk of severe illness from COVID-19. Even accepting his argument that he could still contract severe illness from a vaccine-resistant mutation of the virus, the Salvation Army RRC in Fort Myers, FL, where he currently resides reports zero active cases of COVID-19 and one recovered inmate.¹

¹ See BOP, Covid-19 Cases, <https://www.bop.gov/coronavirus/> (last visited June 23, 2021).

Regarding his second motion, the statements that Judge Weinstein made at sentencing which Mr. Luthmann challenges are not official conditions of his supervised release and, as the Government notes, are subsumed in the mandatory condition to refrain from breaking the law. The Government is also correct that illegality is not a proper ground for modification of supervised release under 18 U.S.C. 3582(e)(2). United States v. Lussier, 104 F.3d 32, 34-36 (2d Cir. 1997). It is hoped that as Mr. Luthmann begins to enjoy his return to relative freedom in the near future, he will devote his energies to more positive endeavors unlike the dubious applications now resolved by this Order.

SO ORDERED.

Dated: Brooklyn, New York
June 23, 2021

/s/ Raymond J. Dearie
RAYMOND J. DEARIE
United States District Judge